

**AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY  
MINUTES OF A PUBLIC HEARING**

DATE..... February 25, 2004  
TIME..... 7:00 P.M.  
PLACE..... CO. OFFICE BLDG.  
20 N. 3<sup>RD</sup> STREET  
LAFAYETTE IN 47901

**MEMBERS PRESENT**

Mark Hermodson  
Gary Schroeder  
Jean Hall  
Steve Clevenger  
Ralph Webb  
Edward Weast  
Bruce Junius

**MEMBERS ABSENT**

**STAFF PRESENT**

Sallie Fahey  
Krista Trout  
Jay Seeger, Atty.  
Michelle D'Andrea

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 25<sup>th</sup> day of February 2004, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

Mark Hermodson called the meeting to order.

**I. APPROVAL OF MINUTES**

Jean Hall moved to approve the minutes of the January 28, 2003 public hearing. Edward Weast seconded the motion.

Steve Clevenger asked if page three was missing documentation of Krista Trout reading an addendum.

Sallie Fahey stated that a formal presentation was not made because the case was continued.

The Board determined that no changes were needed.

The motion carried by voice vote.

**II. NEW BUSINESS**

Sallie Fahey informed the Board that **BZA-1654— DOUGLAS & CYNTHIA GARWOOD** had been amended as shown in the new agenda as well as a new site plan and additional information regarding **BZA-1658- JEFFERY WELCH & SUSAN PRIETO-WELCH.**

**III. PUBLIC HEARING**

Jean Hall moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies. Steve Clevenger seconded and the motion carried by voice vote.

Mark Hermodson read the meeting procedures.

1. **BZA-1654—DOUGLAS & CYNTHIA GARWOOD:** Petitioners are requesting a variance to allow a ~~2-5'~~ 3' 1" side setback instead of the required 6' to construct a new detached garage on an existing slab on property located at 3507 E 200 N, Fairfield 14(NE)23-4

(UZO 4-2-2) CONTINUED FROM THE JANUARY MEETING AT THE BOARDS REQUEST. WITH CONDITION

Jean Hall moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Krista Trout read the revised addendum, with condition.

Douglas Garwood, 3507 E 200 N, Lafayette, IN, stated he had met all conditions and asked for approval.

Steve Clevenger asked if the garage would be physically moved by 7" or shortened by 7".

Douglas Garwood stated that the garage would be shortened by 7".

Ralph Webb asked why Cinergy did not make a definitive decision in their letter.

Krista Trout explained that there was not enough information for Cinergy to make a determination. She stated that if there were a violation, it would have to be corrected at the petitioner's expense.

The Board voted by ballot 4 to grant –3 to deny thus approving **BZA-1654—DOUGLAS & CYNTHIA GARWOOD** with one condition.

**Yes votes**

Bruce Junius  
Ralph Webb  
Steve Clevenger  
Jean Hall

**No votes**

Ed Weast  
Gary Schroeder  
Mark Hermodson

2. **BZA-1657—P.J. & J.A. KANE:** Petitioners are seeking a variance to allow a 10.45' front setback instead of the required 25' from the road right-of-way in order to add a roofed porch onto the home located at 136 Dogwood Ct. (Lot 64 in Glenwood Heights), West Lafayette, Wabash 8(NW)23-4. (UZO 4-2-2)

Jean Hall moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Krista Trout presented printed slides of the zoning map, 2 aerial photos, site plan and 4 pictures. She read the staff report with recommendation of denial. She read the following letters into the record:

Brian and Mary Kay Berndt, 142 Dogwood Court, West Lafayette, in favor.

David and Janice Norman, 118 Dogwood Court, West Lafayette, in favor.

Suman Harshvardhan, 2552 Soldiers Home Road, West Lafayette, in favor.

Grieke Toebes, 124 Dogwood Court, West Lafayette, in favor.

John Sanders, 120 Dogwood Court, West Lafayette, in favor

Joseph and Bette Rubinstein, 2590 North River Road, in favor.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN, stated that the petitioners were present. He said that this neighborhood has the desire to maintain the neighborhood feel and keep people there. He stated that the other residents on this street think this is a good idea. He presented a handout, which showed the different elevations and pictures of other houses in the neighborhood that have added on. He pointed out that there is an additional 12' between the property line and the cul-de-sac which consists of 4' of sidewalk and 8' of right-of-way. He stated that the intent is to add a front porch to the house and the neighbors have no objection. He said that this would not have any impact on traffic or site distance. He mentioned that the staff suggested making the porch smaller and keeping it at 4'. He explained that 4' would be too small even for a swing. He stated that this would raise the value of the house and possibly of the other houses on the cul-de-sac. He said that the hardship is due to the angle the house was built on the cul-de-sac. He pointed out that smaller houses are not feasible anymore and need to be improved upon. He stated that this is a quality of life issue for the entire street. He asked for approval.

Mark Hermodson asked if the dotted line that followed the curve of the cul-de-sac was the 25' setback.

Sallie Fahey stated that was the 25' setback.

Mark Hermodson pointed out that same line on the east side of the building was only 6' into the setback, but the staff report states 10 ½ feet.

Joseph T. Bumbleburg stated that he and Krista Trout have reviewed this issue. He explained that there are 2 separate surveys one that says there is a 25' setback and the other states there is a 15' setback. He said that some of the documents date back to the building of the house. He stated that he and Krista Trout concluded that it was a 25' setback and the line Mark Hermodson was referring to was the 15' setback.

Bruce Junius stated that cul-de-sacs are always unique and it was a good sign that the neighbors are all in favor. He said that one letter that was read was from a resident on River Road and he asked what relevance that had to this case.

Joseph T. Bumbleburg stated that a notice had to be sent to that resident because the back portion of this lot, which is all wooded and downhill, ends on River Road.

Ralph Webb referred to the statement in the staff report that said the house was currently in violation of the neighborhood covenants, but the porch would not be. He asked for explanation of that statement.

Joseph T. Bumbleburg explained that if the setback is 25' then the corner of the house encroaches into it. He stated that there might be a covenant issue, but the covenants are so old, enforcement would be difficult. He reiterated that the neighbors were in favor of the petition.

The Board voted by ballot 7 to grant –0 to deny thus approving **BZA-1657—P.J. & J.A. KANE.**

3. **BZA-1658—JEFFERY WELCH & SUSAN PRIETO-WELCH:** Petitioners are seeking a special exception to allow a dog-breeding kennel in the AW zone, operating by appointment only seven days a week (primarily Saturday and Sunday), to be kept primarily in a proposed single-family home on a 10-acre tract located on Dayton Road, Sheffield (Richardville Reserve) 22-3. (UZO 3-2)

Jean Hall moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Sallie Fahey presented printed slides of the zoning map, 2 aerial photos, 2 site plans and 6 pictures. She read the staff report with recommendation of approval.

Jeffery Welch, 9513 Falkirk Drive, Indianapolis, IN, stated that the intent is to raise dogs for show. He said that they work very hard to place the dogs that they do not use for shows in good homes. He stated that they did not intend on moving the building, unless there was an issue with site lines.

Susan Prieto-Welch, 9513 Falkirk Drive, Indianapolis, IN, reiterated that the dogs they raise are their companions and their care is paramount. She stated that they have spoken to the neighbors in the area and intend to be good neighbors.

Jeffery Welch stated that the addition on the south side of the property was intended for residential use and not the dogs. He said that runs would be 6-12 feet and indoor/outdoor so dogs would have access to them during the day.

James Miller 4035 Dayton Road Lafayette, IN, stated that generally he was in favor but has some questions. He said that the driveway should be more than 6' from the property line and asked if the County required it to be 10' away.

Sallie Fahey stated that the County requires 5' from the edge of the driveway to the edge of the radius where it abuts the actual pavement of the road. She explained that it would be 5' wider on either side. She said that whether or not the building needed to be removed would be decided by the highway department at the time the driveway permit was issued.

James Miller stated that his question was answered and he was in favor of the petition.

Bruce Junius pointed out that the UZO allows a special exception for a dog kennel in the AW zone and asked if it dictated the type or size of dog.

Sallie Fahey stated that the UZO did not specify any restrictions on the type of dogs. She mentioned that issue is considered by the staff when writing their recommendation.

Bruce Junius asked that if the property was sold, whether the new owners would be allowed to raise large dogs.

Sallie Fahey stated that would be allowed, unless there was a condition placed on the special exception that limited the type of dog.

Jean Hall asked for confirmation that any future owner could use this facility as a kennel for any size or type of animal.

Sallie Fahey replied affirmatively. She stated that they were limited to the site plan and motions of the Board such as hours of operation.

Jean Hall stated that hours of operation are 7 days a week, 24 hours a day, and no limitation on the type of animal. He asked the petitioners if the dogs that have access to the run all day would be unattended.

Jeffery Welch replied affirmatively. He stated that this would be a covered run.

Mark Hermodson asked the petitioners if they would be opposed to a condition limiting this to the breed they are intending on raising.

Jeffery Welch stated that he would not be opposed to such a condition. He mentioned that they were considering having a larger dog as a guard dog against predators of the small dogs.

Susan Prieto-Welch explained that they were interested in a herding breed not a guarding breed.

Jean Hall asked the Board attorney and staff if there was proper wording that could limit the kennel to a desirable size and type of animal.

Jay Seeger stated that they could enforce a condition that limits this facility to dogs weighing less than 10 pounds except that they might have no more than 2 larger dogs.

Sallie Fahey stated that if they separated the kennel restrictions, then they would be allowed to have 3 dogs as pets.

Jean Hall pointed out that would only apply up to a certain number of animals and once that was exceeded that would not matter.

Jay Seeger stated that was correct. He explained that once the number of animals on site exceeded 4 it does not apply.

Jean Hall moved to add the following conditions:

That the size of the dogs used for breeding be limited to 20 lbs and;  
Other dogs of larger size are limited to a maximum of 2.

Steve Clevenger seconded and the motion carried by voice vote.

Steve Clevenger asked if there was a restriction on the total number of dogs.

Mark Hermodson stated that would be restricted by the site plan

The Board voted by ballot 7 to grant –0 to deny thus approving **BZA-1658—JEFFERY WELCH & SUSAN PRIETO-WELCH.**

4. **BZA-1659—MICHELLE R. & JOSEPH B. HARRISON:** Petitioners are seeking a variance to allow a lot coverage of 29% instead of the maximum permitted 25% to construct an enclosed swimming pool on property located at 3339 Putnam Street (Lot 380 in University Farm), West Lafayette, Wabash 6(SE)23-4. (UZO 4-2-1)

Jean Hall moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Sallie Fahey presented printed slides of the zoning map, 2 aerial photos, a site plans, 6 drawings of the proposed addition and 4 pictures. She read the staff report with recommendation of denial. She read the following letters into the record:

Ming Wang, 3331 Putnam Street, West Lafayette, IN, in favor.

Dr. DeLuca, Arnett Clinic, stating that the proposed pool would be beneficial to rehabilitation.

Marianne Owen, Stuart & Branigin, 300 Main Street, Suite 800, Lafayette, IN, stated that the petitioners, the designers and the contractors were all present. She informed the Board that the proposed pool was being constructed for the petitioner who has serious health problems and needs the pool for therapy and not recreation. She mentioned that the therapy was needed year round and therefore the pool must be enclosed. She explained that if the size of the pool were reduced, the size of the building would remain the same due to safety issues. She stated that the deck needed to have enough space to pull someone out and work on if necessary. She pointed out that a two-story addition could be build onto the home and have a greater impact on the neighborhood. She stated that the intent was to create an aesthetically pleasing addition that was consistent with the neighborhood. She pointed out that all other conditions of the ordinance were met. She mentioned that enclosed pools are still the safest types of pools to have. She presented a petition signed by 10 out of the 13 adjacent neighbors who are in favor of this request.

Bruce Junius asked if there was an elevation.

Marianne Owen stated that the elevations were part of the staff's presentation. She reviewed the elevations.

Jean Hall stated that the left side of the addition seems to be extending many feet beyond the current structure. He asked why the safety and medical needs could not still be met if the entire addition was moved to the right.

Marianne Owen reviewed the footprint of the house and it's impact on the addition. She asked Nate Burton to assist in the explanation of the design.

Jean Hall stated that the left side of the addition lined up with the house, but the right side extends well beyond the existing structure. He said that if the addition were moved to the right, then it would be further from the property line, would still provide for the green space, would still be safe and still provide for the medical needs.

Marianne Owen stated that the downside would be the significant reduction of a backyard, open space and play area.

Jean Hall reiterated where he thought the addition should go. He mentioned that it would still allow for a play area.

Nate Burton, Burton Pools, 800 Main Street, Lafayette, IN, stated that a permit has been obtained and construction on the pool has begun. He explained that they found out from the City of West Lafayette that there was a lot infringement issue only after they started construction. He informed the Board that they had reviewed the plans with the subdivision committee and the City, and had verbal preliminary approvals and not until they were getting the permit for the enclosure did anyone catch the lot infringement issue. He explained that the number of people that the pool will hold dictates the amount of space needed around the pool.

Marianne Owen pointed out that this had to be approved to the University Farm Architectural Committee, who look at the covenants and aesthetics.

Terry Burton, Burton Pools, 800 Main Street, Lafayette, IN, explained that with all enclosed pools there are huge dehumidification issues that require large mechanical allowances. He said the space needed for this pool was 5' long by 3 ½ ' deep and 3 ½ ' high and that is the reason for this large utility room.

Jean Hall stated that he did not see the limitation in moving the utility room.

Terry Burton explained that the downward angle of the house and the side easement were not parallel, so moving it downward would encroach on the easement.

Jean Hall stated that he was referring to moving it in the other direction.

Terry Burton explained that the direction Jean Hall was referring to had issues such as basement window wells and the gas meter. He stated that this proposal was as far down as they dared to go.

Bruce Junius asked if the mechanics of the pool create a lot of noise.

Terry Burton replied negatively. He said that the noise production was less than an air conditioner because of the large ductwork.

Ralph Webb asked if a smaller pool could be installed.

Terry Burton stated that was an issue of what is needed for hydrotherapy.

Marianne Owen stated that this was smallest size lap pool available. She pointed out what the south side would look like.

Bruce Junius mentioned that these are small lots and it is positive that University Farm has approved it and the neighbors signed the petition. He asked how the neighbors in the back felt about the addition.

Joseph Harrison, 3339 Putnam Street, West Lafayette, IN, stated that the neighbors to the south are the neighbors who wrote the letter and they have seen the plans and have no objections. He said that the other 2 neighbors on the south side have signed the petition and have no objection. He said that the only ones he was not able to catch, and have not signed are across the street and in the far corner.

Ralph Webb mentioned that the south border was a concern. He pointed out that border was not anything that could be controlled. He explained that there are several way that this could be constructed and still end up with a 72' wall or enclosed area.

Sallie Fahey replied affirmatively.

Steve Clevenger mentioned that there were 4 other requests in University Farm and asked what percentage those requests exceeded the 25% minimum lot coverage.

Sallie Fahey stated she did not have that available at this time.

The Board voted by ballot 5 to grant –2 to deny thus approving **BZA-1659—MICHELLE R. & JOSEPH B. HARRISON.**

**Yes Votes**

Ralph Webb  
Bruce Junius  
Steve Clevenger  
Gary Schroeder  
Edward Weast

**No Votes**

Jean Hall  
Mark Hermodson

Mark Hermodson stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

**IV. ADMINISTRATIVE MATTERS**

Sallie Fahey read all the meeting dates for the 2004 calendar year. She informed the Board of Krista Trout's engagement. She explained that Krista would be staying in Lafayette, and therefore the staff would not be losing her.

**V. ADJOURNMENT**

Jean Hall moved for adjournment. Edward Weast seconded and the motion carried by voice vote.

Respectfully submitted,



Michelle D'Andrea  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director